



COPY MAILED

NOV 14 2007

OFFICE OF PETITIONS

Zagorin O'Brien Graham LLP
7600B N. Capital Of Texas HWY, Suite 350
Austin, Texas 78731

In re Application of
Zhang

Application No. 09/997,378

Filed: Nov 30, 2001

Atty Docket: 026-024

:
:
: DECISION GRANTING PETITION
:
:

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 CFR § 1.705(b)" timely¹ filed on June 28, 2007 requesting that the Office adjust the PTA from zero (0) days to a determination of three hundred and thirty-eight (338) at the time of the mailing of the notice of allowance.

Applicants' application for PTA is **GRANTED**. The Office will make an adjustment to the PTA determination from a determination of zero days to a determination of 338 days.

Applicants request that the Office erred in asserting that the response to the restriction requirement was not received in the Office until November 15, 2004. Applicants assert that the actual response date to the restriction requirement occurred on September 3, 2003. Accordingly, applicants assert that the three hundred and sixty-nine day reduction by the USPTO is in error. Therefore, applicants assert that the total amount of PTA at the time of the mailing of the notice of allowance is 338 days ($460 + 194 - 136 - 180 = 338$).

Applicants arguments are persuasive to the extent herein determined. A review of the records reveal that Applicant did in fact respond to the restriction requirement within three months. Applicants have copy of the fax transmittal receipt indicating that the response to the election/restriction response was received in the Office on September 3, 2003. Accordingly, the 369-day delay by applicant is in error in that the Office entered November 5, 2004 as the reply date rather than the actual date of September 3, 2003. Accordingly, the Office delayed 194 days under 37 CFR 1.702(a)(1) and 460 days under 37 CFR 1.702(a)(2). Applicant delayed 180 days under 37 CFR 1.704(c)(8) and 136 days under 37 CFR 1.704(b). The correct amount of PTA is 338 days as asserted by applicant.

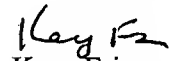
After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the application. Any delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) or reductions under 37 CFR 1.704(b) or 1.704(c)(10) will be included in the issue notification letter determination that is mailed to applicants approximately three weeks prior to the issue date.

¹Issue fee paid on 6/28/2007.

09/997378

The Office has assessed the \$200.00 fee associated with this application. No additional fees are required by applicant.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy.

Cc: Copy of adjusted PAIR calculation

Day : Tuesday
Date: 11/13/2007 **PALM INTRANET**

Time: 11:39:56

PTA Calculations for Application: 09/997378

Application Filing Date:	11/30/2001	PTO Delay (PTO):	654
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	685
Post-Issue Petitions:	0	Total PTA (days):	338
PTO Delay Adjustment:	369		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	11/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	369		
37	04/18/2007	MAIL NOTICE OF ALLOWANCE			
36	04/16/2007	ISSUE REVISION COMPLETED			
35	04/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	04/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	04/16/2007	NOTICE OF ALLOWABILITY			
32	02/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	02/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
29	02/10/2007	DATE FORWARDED TO EXAMINER			
28	02/02/2007	RESPONSE AFTER NON-FINAL ACTION			
27	11/03/2006	MAIL NON-FINAL REJECTION	460		21
26	10/30/2006	NON-FINAL REJECTION			
25	08/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	07/19/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	07/19/2006	DATE FORWARDED TO EXAMINER			
21	03/31/2005	RESPONSE TO ELECTION / RESTRICTION FILED		136	13
20	10/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	09/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		180	21
18	08/08/2005	REFERENCE CAPTURE ON IDS			

17	08/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/31/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	03/22/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
14	01/10/2005	DATE FORWARDED TO EXAMINER			
13.1	11/15/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
13	11/15/2004	RESPONSE TO ELECTION / RESTRICTION FILED		369	8
12	01/11/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
11	01/10/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
10	01/11/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
9	03/22/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
8	08/12/2003	MAIL RESTRICTION REQUIREMENT	194		-1
7	08/11/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
6	04/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	12/20/2001	APPLICATION DISPATCHED FROM OIPE			
4	12/19/2001	APPLICATION IS NOW COMPLETE			
2	12/05/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/30/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to [PALM](#) | [ASSIGNMENT](#) | [OASIS](#) | [Home page](#)